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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,061	06/29/2001	Moshe Valenci	42390P11388	9314

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EXAMINER

LIPMAN, JACOB

ART UNIT PAPER NUMBER

2134

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,061

Applicant(s)

VALENCI ET AL.

Examiner

Jacob Lipman

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 17-20, 25-28 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 9-16, 21-24, 29-32 and 39-44 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, 17-20, 25-28, and 33-38, drawn to a system using cryptographic information not stored in the system, by using a passed pointer, classified in class 713, subclass 162.
 - II. Claims 9-16, 21-24, 29-32, and 39-44, drawn to sending cryptographic information messages, classified in class 380, subclass 278.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as performing cryptographic operations using external resources. Invention II has separate utility such as sending a cryptographic information message, which is not a pointer, such as specified in claim 12. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
4. A telephone call was made to Vincent Anderson on 11/22/2004 to request an oral election to the above restriction requirement. Applicant elected group I without traverse.
5. Claims 9-16, 21-24, 29-32, and 39-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

Claim Objections

6. Claims 25-32 are objected to because of the following informalities: the term data communication medium is not defined in the specification. Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 17-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Machine-accessible medium, as defined in the specification, includes both tangible and non-tangible media, and is thus not patentable subject matter. The term storage media only refers to tangible media, and would be an acceptable substitute.

9. Claims 25-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. An electronic data signal is not tangible media, and is thus not patentable subject matter.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-8, 17-20, 25-28, and 33-38, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Bihlmeyer et al., US Patent number 6,785,811.

With regard to claims 1, 4, 17, 25 and 33, Bihlmeyer discloses a method of associating cryptographic information with a data packet (column 2 lines 10-16), storing the cryptographic information (column 2 lines 2-5), generating a pointer to the cryptographic information (column 2 lines 35-37), passing the pointer from a first system layer to a second system layer (column 7 lines 34-58), accessing the cryptographic information using the pointer (column 2 lines 51-55), performing cryptographic operations on the data packet, and transmitting the data packet (column 6 lines 25-45).

With regard to claims 2, 3, 34 and 35, Bihlmeyer discloses drivers can use the system (column 5 line 48-column 6 line 4).

With regard to claim 5, Bihlmeyer discloses the cryptographic information comprises a security association (column 8 lines 20-41).

With regard to claims 6, 18, 26, and 36 Bihlmeyer discloses the memory can be cache (column 5 lines 45-47).

With regard to claims 7, 8, 19, 20, 27, 28, 37 and 38, Bihlmeyer discloses the pointers are used to populate a cryptographic library after a request to perform cryptographic operations (column 8 lines 20-54).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3738. The examiner can normally be reached on 7:00 - 4:00 (M-Th).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571-272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL


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